Government Appeal No. 1909 of 2001
(Old No. 1279/1999)

Hon'ble J.C.S. Rawat, J.

Case called out. None is present on behalf of the respondents inspite of service.

I have gone through the entire judgment of the trial court. The trial court has rightly held contradiction in the prosecution witnesses and in the site plan regarding place of incident. The Investigating Officer also proved the place of incident at a different place than the prosecution witnesses. Thus there is a clear-cut contradiction with regard to the place of incident. The medical evidence does not corroborate the ocular testimony. The Doctor has opined that the injuries were beyond 6 hours old whereas the injuries as stated in the ocular testimony below 6 hours old. Thus the medical testimony does not support the ocular testimony. Apart this, the independent witnesses were available at the spot and the prosecution could have advanced the argument that nobody will be able to depose against the person because of the prevailing circumstances of the society. The independent witnesses remain indifferent. Only the interested person can depose against the accused. But in this case Vikram Singh and Chanchal Singh who are said to be present at the spot are closely related to the prosecution witnesses but even then they have not been produced before the court below.

In view of the above discussion, I am of the view that it is not a fit case for the leave.

The leave petition is dismissed.

The leave petition has been dismissed today by the court. The leave has not been granted, as such, the appeal is dismissed

Dt. : 02.03.2006 **(J.C.S. Rawat, J.)**

Shiv